

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TRI-STATE DISPOSAL, INC., an)	
Illinois corporation,)	
)	
Plaintiff,)	Case No. 1:18-cv-02138
)	
vs.)	Judge Sara L. Ellis
)	
THE VILLAGE OF RIVERDALE,)	
a municipal corporation;)	
LAWRENCE L. JACKSON, Mayor of the)	
Village of Riverdale)	
)	
Defendants.)	

**EXHIBITS TO TRI-STATE DISPOSAL, INC.'S
56.1 STATEMENT OF ADDITIONAL FACTS IN OPPOSITION
TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Exhibit FF	Illinois Secretary of State LLC File Detail Report on Centennial Holdings, LLC
Exhibit GG	Declaration of Jeffrey Germany
Exhibit HH	October 10, 2017 Letter from Mayor Jackson to Carmelia Shipp
Exhibit II	November 28, 2017 Village Record of Proceedings Transcript
Exhibit JJ	Riverdale Village Code 2.08.070
Exhibit KK	65 ILCS 5/6-4-1 and 5/6-4-2
Exhibit LL	February 10, 2020 Cease and Desist Notice to Riverdale Materials
Exhibit MM	Declaration of Sheryl Germany
Exhibit NN	Declaration of Mark A. LaRose
Exhibit OO	February 12, 2020 Letter to Daley and Georges regarding threatening phone call
Exhibit PP	Copy of <i>Weeks v. City of Plano</i> , No. 88 C 0518, 1989 WL 20831 (N.D. Ill. Mar. 1989)

EXHIBIT FF



Corporation/LLC Search/Certificate of Good Standing

LLC File Detail Report

File Number	06805337
Entity Name	CENTENNIAL HOLDINGS LLC
Status	ACTIVE

Entity Information

Principal Office
14501 S. UNION
RIVERDALE, IL 608270000

Entity Type
LLC

Type of LLC
Domestic

Organization/Admission Date
Thursday, 15 March 2018

Jurisdiction
IL

Duration
PERPETUAL

Agent Information

Name

TAMMY WATSON

Address

15059 FOREST VIEW LN
SOUTH HOLLAND , IL 60473

Change Date

Thursday, 15 March 2018

Annual Report

For Year

2022

Filing Date

00/00/0000

Managers

Name

Address

LAWRENCE L JACKSON
14501 S. UNION
RIVERDALE, IL 60827

Name

Address

TAMMY WATSON
15059 FORESVIEW LANE
SOUTH HOLLAND, IL 60473

Series Name

NOT AUTHORIZED TO ESTABLISH SERIES

[Return to Search](#)

[File Annual Report](#)

Adopting Assumed Name

Articles of Amendment Effecting A Name Change

Change of Registered Agent and/or Registered Office

(One Certificate per Transaction)

EXHIBIT GG

DECLARATION UNDER OATH OF JEFFREY GERMANY

I, Jeffrey Germany, being duly sworn on oath and under penalty of perjury, do hereby state as follows:

1. I am the Operations Manager and corporate secretary for Tri-State Disposal, Inc.
2. The facts contained in this Declaration are based on my personal knowledge, and if called to do so, I could competently testify to these facts.
3. I have personally observed Defendant Mayor Jackson and Riverdale Materials' owner Jim Bracken frequently socializing for lunches in south suburban Midlothian. I have personally seen them there several times, and have personal knowledge that they frequently have lunch (approximately once per week in Midlothian).
4. As I testified in my deposition, prior to September and October of 2017, Tri-State was regularly paid by the Village in 30-45 days (the contract with Riverdale says 15 days). Tri-State was okay with that. However, almost immediately after Tri-State issued criticism regarding the Riverdale Materials' site, the procedures, the contamination, the run-off, the fact that Riverdale didn't own the retention pond, that there should be both post-closure bonds and royalties required of Riverdale Materials, payments went from being received in 30-45 days to 180 days and more. Because of this Tri-State had to scramble to pay all of its bills, including payrolls, expenses, loan payments, utilities, property taxes, which never stopped during this period, and payment of these bills was hampered, if not completely interrupted, by the lack of payments from Riverdale. The Village still owes Tri-State some interest on the late payments.
5. Also, even though Tri-State had the right to terminate essential trash pick-up services and to not pay royalties due to Riverdale's lack of payment, Tri-State continued to provide its usual and essential services to the Village residents and continued to pay royalties to the Village.
6. In addition, Tri-State suffered damages to its reputation by not being allowed to participate in the 2018 Spring Clean-up. Residents called us for advice on when the clean-up will happen, and because of the Village's action (inaction) we could not provide them with any information, which made us look totally incompetent.

7. Tri-State's other damages include the loss of the opportunity to bid on the garbage contract. Also, Tri-State lost contracts that it had with multi-family building owners when the Mayor approved requiring these owners to use Flood Bros. as its sole garbage contractor.

8. The Village contract that Tri-State was not given an opportunity to bid on, was worth approximately \$60,000 to \$65,000 per month, and Tri-State expected it to continue for at least five (5) years.

9. Tri-State lost contracts that it had with multi-family building owners when the Mayor approved requiring these owners to use Flood Bros. as its sole garbage contractor. In addition, Tri-State earned approximately \$6,000 per month on the multi-family contract, or approximately \$72,000 a year. Tri-State expected the multi-family contract to go on indefinitely, but because of the ordinance the Mayor approved requiring multi-family owners to use Flood Bros. as its sole garbage contractor, Tri-State lost that approximate \$72,000 per year.

Further Declarant Sayeth Not.

Jeffrey Germany

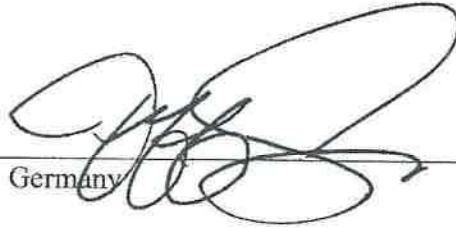
A handwritten signature in black ink, appearing to read 'Jeffrey Germany', is written over a horizontal line.

EXHIBIT HH



VILLAGE OF RIVERDALE

157 WEST 144TH STREET, RIVERDALE, IL 60827
PHONE (708) 841-2200 • FAX (708) 841-7587

Lawrence L. Jackson
Mayor

10/10/17

PRIVATE AND CONFIDENTIAL

Carmelia Shipp
14211 S. Parnell
Riverdale, Illinois 60827

Re: Termination of Limited/Term Appointment

Dear Ms. Shipp,

This letter is to inform you that your appointment as a Zoning Board of Appeals Commissioner has ended and will not be renewed.

I would like to take this opportunity to thank you for your contribution to the Zoning Board of Appeals and the Village of Riverdale.

I wish you all the best in your future endeavors.

Sincerely,

Lawrence L. Jackson
Mayor

EXHIBIT II

1
2 TRI-STATE DISPOSAL, INC.,)
3 Complainant,)
4 vs.)
5 RIVERDALE MATERIALS, LLC,)
6 Respondent.)

7
8 Record of proceedings in the
9 hearing of the above-entitled cause, at 157 W. 144th
10 Street, before the Board of Trustees of the Village
11 of Riverdale, in the City of Riverdale, County of
12 Cook, State of Illinois, before Victoria D. Rocks,
13 CSR, Notary Public, commencing at 7:00 o'clock p.m.,
14 on the 28th day of November, 2017, A.D.
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Page 2		Page 3	
1	APPEARANCES:	1	I-N-D-E-X
2		2	
3	LaROSE & BOSCO, LTD.	3	
4	MR. MARK LaROSE	4	Report of Proceedings: 4 - 15
5	200 N. LaSalle Street	5	
6	Suite 2810	6	
7	Chicago, Illinois 60601	7	
8	(312) 642-4414	8	
9	mlarose@laroseboscolaw.com	9	
10		10	
11	appeared on behalf of the Complainant.	11	
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Page 4		Page 5	
1		1	the I-2 general industrial district known as 1201
2	MR. JACKSON: Good evening. I will call the	2	West 138th Street. Mr. Welch.
3	regular meeting of the Board of Trustees to order.	3	MR. WELCH: Yes. This was the ordinance that
4	It's 7:00 o'clock. Today's date is	4	was discussed. There was a hearing. And the record
5	November 28, 2017. We'll have a moment of	5	that was provided by Chief Scharnhorst to all of the
6	meditation, reflection.	6	members establishes the Zoning Board of Appeals gave
7	If everyone could please stand for the	7	a recommendation to adopt, subject to the conditions
8	pledge of allegiance. Roll call.	8	that are set forth in the ordinance.
9	MS. HOLCOMB: Trustee Jefferson.	9	MR. JACKSON: Are there any questions for the
10	MR. JEFFERSON: Here.	10	Village attorney? May I please have a motion to
11	MS. HOLCOMB: Cassandra Riley-Pinkney.	11	adopt.
12	MS. PINKNEY: Here.	12	MR. WELCH: So moved.
13	MS. HOLCOMB: Trustee Lewis.	13	MR. JEFFERSON: Second.
14	MR. LEWIS: Here.	14	MR. LaROSE: Excuse me, Mr. Mayor.
15	MS. HOLCOMB: Trustee Williams.	15	MR. JACKSON: You're out of order, sir.
16	MS. WILLIAMS: Here.	16	MR. LaROSE: You're not going to take public
17	MS. HOLCOMB: Trustee Levere.	17	comments on this?
18	MR. LEVERE: Here.	18	MR. WELCH: There is a public comment on the
19	MS. HOLCOMB: Trustee Smith.	19	agenda.
20	MR. SMITH: Here.	20	MR. LaROSE: Which will be worthless if you
21	MR. JACKSON: A quorum is present. Item 3 on	21	pass the ordinance before this comment.
22	new business, an ordinance of the Village of	22	MR. WELCH: Sir, the record has been provided.
23	Riverdale, granting a conditional use to allow a	23	Everything you stated from the hearing is in the
24	metal recycling facility and transfer station within	24	record. They have it. They reviewed it, and public

Page 6	Page 7
<p>1 comment is at the conclusion.</p> <p>2 MR. LaROSE: Not the document that I delivered</p> <p>3 at 2:00 o'clock today. It's outside the record.</p> <p>4 MR. WELCH: Please sit down. You'll have your</p> <p>5 chance during public comment.</p> <p>6 MR. LEWIS: I second.</p> <p>7 MR. JACKSON: Roll call, please.</p> <p>8 MS. HOLCOMB: Trustee Lewis.</p> <p>9 MR. LEWIS: Here.</p> <p>10 MR. WELCH: You have to say yes.</p> <p>11 MR. LEWIS: Yes.</p> <p>12 MS. HOLCOMB: Trustee Lewis.</p> <p>13 MR. LEWIS: Yes.</p> <p>14 MS. HOLCOMB: Trustee Smith.</p> <p>15 MR. SMITH: Yes.</p> <p>16 MS. HOLCOMB: Trustee Jefferson.</p> <p>17 MR. JEFFERSON: Yes.</p> <p>18 MS. HOLCOMB: Trustee Riley-Pinkney.</p> <p>19 MS. RILEY-PINKNEY: Yes.</p> <p>20 MS. HOLCOMB: Trustee Williams.</p> <p>21 MS. WILLIAMS: Yes.</p> <p>22 MS. HOLCOMB: And Trustee Levere.</p> <p>23 MR. LEVERE: Yes.</p> <p>24 MR. JACKSON: Motion passed. Members of the</p>	<p>1 public now have an opportunity to address the Board.</p> <p>2 You'll be allowed to speak once for three minutes.</p> <p>3 When you're recognized by the Chair, please state</p> <p>4 your name for the record. Mr. LaRose.</p> <p>5 MR. LaROSE: Thank you, Mayor. Mr. Mayor,</p> <p>6 members of the Board, Officers, my name is Mark</p> <p>7 LaRose, principal of the law firm of LaRose Bosco.</p> <p>8 I represent Tri-State Disposal, the folks</p> <p>9 that run a transfer station in town for going on 20</p> <p>10 years. They pick up your trash. Supply more than a</p> <p>11 million dollars of royalties to the Village, and</p> <p>12 they have posted a \$50,000 CD for the benefit of</p> <p>13 Riverdale in case anything goes wrong at the site.</p> <p>14 An 18 year perfect operating history.</p> <p>15 Today I delivered or my assistant delivered</p> <p>16 to Linda Alexander at 2:00 o'clock a package for</p> <p>17 each of you with respect to the transfer station</p> <p>18 ordinance that you just passed.</p> <p>19 I would like to ask that this be made part of</p> <p>20 the record for this hearing.</p> <p>21 MR. WELCH: The hearing is closed. This is not</p> <p>22 a hearing, this is a meeting. And Mr. LaRose, as an</p> <p>23 attorney, you should be aware that there are other</p> <p>24 parties that have an interest in this application</p>
Page 8	Page 9
<p>1 and to submit something without discussion and</p> <p>2 without them having the ability to submit additional</p> <p>3 evidence to refute what you're proposing to submit,</p> <p>4 it causes problems as it relates to those people's</p> <p>5 rights.</p> <p>6 Everyone had an opportunity to submit</p> <p>7 documentation and evidence into the record. It's</p> <p>8 now closed.</p> <p>9 MR. LaROSE: Except, Mr. Welch, it would have</p> <p>10 been impossible at the hearing to submit a</p> <p>11 transcript of the hearing.</p> <p>12 It would have been impossible at the hearing</p> <p>13 to submit the results of an FOIA request that I had</p> <p>14 to make after the hearing. So these are things that</p> <p>15 some of which were in there before, but new stuff.</p> <p>16 And I think you should accept it.</p> <p>17 But if you don't, I want a ruling on the</p> <p>18 record so the Court --</p> <p>19 MR. WELCH: It's not a hearing.</p> <p>20 MR. LaROSE: I am asking for this to be part of</p> <p>21 the record.</p> <p>22 MR. WELCH: This Board is not here to make a</p> <p>23 ruling. There is no ruling. They are not the</p> <p>24 Zoning Board.</p>	<p>1 The Zoning Board is the one who controlled</p> <p>2 the record.</p> <p>3 MR. LaROSE: Except, Mr. Welch, as an attorney</p> <p>4 you should know that the actions of this Board today</p> <p>5 are subject to review by the Circuit Court of Cook</p> <p>6 County.</p> <p>7 So this is a hearing, and this is a</p> <p>8 decision--</p> <p>9 MR. WELCH: Respectfully, you're wrong. Here</p> <p>10 is why. Let me explain. This is subject to de novo</p> <p>11 review.</p> <p>12 Do you understand what de novo review is?</p> <p>13 MR. LaROSE: Yes. It means new. I took Latin</p> <p>14 in law school too.</p> <p>15 MR. WELCH: This is considered a legislative</p> <p>16 action subject to de novo review. So in the event</p> <p>17 that you have issues and want to take it to the</p> <p>18 Circuit Court, we're going to create our own record.</p> <p>19 MR. LaROSE: Yes.</p> <p>20 MR. WELCH: All right.</p> <p>21 MR. LaROSE: I would like this to be part of</p> <p>22 the record that you are creating.</p> <p>23 MR. WELCH: That is created in the Circuit</p> <p>24 Court. The Zoning Board record is closed.</p>

<p style="text-align: right;">Page 10</p> <p>1 MR. LaROSE: Okay, but the Zoning Board action</p> <p>2 is also subject to review under the administrative</p> <p>3 review law.</p> <p>4 MR. WELCH: Incorrect.</p> <p>5 MR. JACKSON: Your time is expired.</p> <p>6 MR. LaROSE: Half it of it has been taken up by</p> <p>7 the lawyer. I would like somebody to tell me--</p> <p>8 MR. JACKSON: Your time is expired. Does</p> <p>9 anyone wish to address the Board?</p> <p>10 MR. WELCH: You could submit it as a resident</p> <p>11 or a citizen, whatever you like. You could submit</p> <p>12 it, but it's not going to be made part of the Zoning</p> <p>13 Board record.</p> <p>14 MR. LaROSE: And I did submit it. I was told</p> <p>15 it would be part of the package.</p> <p>16 MR. JACKSON: Sir, would you please approach</p> <p>17 the podium.</p> <p>18 MR. LaROSE: Thank you. See you all in court.</p> <p>19 MR. JACKSON: State your name for the record.</p> <p>20 MR. STEWART: Good evening. My name is Paul</p> <p>21 Stewart. I just want to say I have known</p> <p>22 Mr. Bracken and his team and have worked closely</p> <p>23 withh them over the years throughout the City of</p> <p>24 Chicago and State of Illinois.</p>	<p style="text-align: right;">Page 11</p> <p>1 You can't ask for a better business person to</p> <p>2 come into your community. I know that there may</p> <p>3 have been some concerns, some questions that have</p> <p>4 been raised. We were at the meetings prior and had</p> <p>5 heard the concerns that have been addressed.</p> <p>6 I just wanted to express a positive light on</p> <p>7 the new business coming into this community. And</p> <p>8 the participation with minority companies throughout</p> <p>9 Cook County has been very impressive based on my</p> <p>10 interaction with the company over the years. So I</p> <p>11 appreciate your time.</p> <p>12 MR. JACKSON: Thank you for your comments.</p> <p>13 Mr. Reynolds.</p> <p>14 MR. REYNOLDS: James Reynolds, 13920 South</p> <p>15 Racine, Riverdale, Illinois. I only have one</p> <p>16 question.</p> <p>17 I would like to know how this company can be</p> <p>18 operating. Are they operating on a permit that was</p> <p>19 issued by the Village of Riverdale or are they</p> <p>20 operating on a temporary permit?</p> <p>21 Had they been given a permit to operate by</p> <p>22 the Village of Riverdale?</p> <p>23 MR. WELCH: As I stated before, the Village</p> <p>24 authorized them to continue to operate while the</p>
<p style="text-align: right;">Page 12</p> <p>1 zoning application was being processed.</p> <p>2 MR. REYNOLDS: How can that be? Say, for</p> <p>3 instance, I want to start a business, and I just</p> <p>4 say, well, I'm just going to start operating until</p> <p>5 you make a decision to give me a permit. How did</p> <p>6 that come about? That's all I want to know.</p> <p>7 MR. WELCH: As I stated in the hearing --</p> <p>8 MR. REYNOLDS: It was not stated in the</p> <p>9 hearing.</p> <p>10 MR. WELCH: The Village originally deemed them</p> <p>11 a contractor yard. On further review, it was deemed</p> <p>12 that a contractor yard was not the correct</p> <p>13 determination.</p> <p>14 MR. REYNOLDS: But they stated --</p> <p>15 MR. WELCH: I'm answering the question. On</p> <p>16 further review it was deemed that the contractor's</p> <p>17 yard was not the correct use determination.</p> <p>18 So they had already started operating when</p> <p>19 they were deemed the contractor's yard. So we then</p> <p>20 brought them in and informed them that the proper</p> <p>21 use should be a metal recycling transfer station.</p> <p>22 And they agreed to submit to the conditional use</p> <p>23 permit process, and they understood that in the</p> <p>24 event this conditional use was not granted, that</p>	<p style="text-align: right;">Page 13</p> <p>1 they would be subject to be shut down.</p> <p>2 MR. REYNOLDS: Do they have a permit?</p> <p>3 MR. WELCH: They were authorized.</p> <p>4 MR. REYNOLDS: Do they have a permit?</p> <p>5 MR. WELCH: They were not issued a paper</p> <p>6 permit, no.</p> <p>7 MR. REYNOLDS: Thank you. That is all I wanted</p> <p>8 to know.</p> <p>9 MR. JACKSON: Mr. Marzano.</p> <p>10 MR. MARZANO: Joseph Marzano, 458 West 136th</p> <p>11 Place. I haven't been to a lot of meetings lately,</p> <p>12 but every time I come, people want to speak</p> <p>13 negatively.</p> <p>14 I do want to thank the Board. So the</p> <p>15 residents know, right before Thanksgiving the Board</p> <p>16 and the Mayor were able to hand out 370 food boxes</p> <p>17 to residents. These are families that wouldn't have</p> <p>18 a Thanksgiving dinner if it weren't for the Mayor</p> <p>19 asking for donations for food.</p> <p>20 My second thing is I've lived in Riverdale</p> <p>21 for a long time and all the land on 138th has been</p> <p>22 empty since I was a kid.</p> <p>23 I don't see the problem with people wanting</p> <p>24 to come into Riverdale, spend their own money</p>

<p style="text-align: right;">Page 14</p> <p>1 redeveloping the land and bringing income to the 2 Village of Riverdale, offering jobs.</p> <p>3 I just think people should stop bringing 4 politics into this. They got nothing else to do, so 5 they're going to pick on it. So Board, I'm asking 6 you to support what you just passed and keep 7 supporting it. It's going to bring jobs, tax 8 dollars and everything into Riverdale.</p> <p>9 MR. JACKSON: Thank you for your comments. 10 Ms. Shipp.</p> <p>11 MS. SHIPP: Good evening, Board. I just want 12 to say that I have been praying for Riverdale, and I 13 pray to God that the injustice that is going on in 14 Riverdale will come to an end.</p> <p>15 I know in my heart, I know that there's 16 justice. God tells me so. But how can a land 17 that's been contaminated and, in fact, the Village 18 had a lawsuit against it for being contaminated, 19 which never been cleaned up. And you allow the 20 business to do some more business.</p> <p>21 I don't know where is your integrity. You 22 were sworn in to serve the people of Riverdale. 23 Where is it? I asked before how much money is in it 24 for you. How much is your integrity. This little</p>	<p style="text-align: right;">Page 15</p> <p>1 town, poor as it is, you could look around for a 2 community, people of color.</p> <p>3 We're the people that they do the most damage 4 to. I would like to know where is your integrity in 5 regard to this company. I pray, and I know God will 6 answer my prayer that the unlawfulness of this town 7 will come to an end.</p> <p>8 MR. JACKSON: Anyone else? There are no other 9 comments. I ask for a motion to adjourn.</p> <p>10 MS. WILLIAMS: So moved.</p> <p>11 MR. JACKSON: All in favor.</p> <p>12 MR. LEWIS: Second.</p> <p>13 MR. JACKSON: Meeting adjourned at 7:23 p.m. 14 Have a good night.</p>
<p style="text-align: right;">Page 16</p> <p>1 STATE OF ILLINOIS) 2) ss: 3 COUNTY OF C O O K) 4)</p> <p>5 VICTORIA D. ROCKS, C.S.R., Notary 6 Public, being first duly sworn, deposes and says 7 that she is a Certified Shorthand Reporter, doing 8 business in the City of Chicago, County of Cook, 9 State of Illinois, and reported proceedings in the 10 Courts in said County;</p> <p>11 That she reported in shorthand and 12 thereafter transcribed the foregoing proceedings; 13 That the within and foregoing 14 transcript is a true, accurate, and complete record 15 of the proceedings had upon the hearing in the 16 County of Cook, State of Illinois, on this 11th day 17 of December, 2017.</p> <p>18 <i>Victoria Rocks CSR</i> 19 20</p> <p>21 VICTORIA D. ROCKS, C.S.R. 22 License No. 084-002692 23 24</p>	

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\$	7:00 4:4	Appeals 5:6	business 4:22 11:1,7 12:3 14:20
\$50,000 7:12	A	application 7:24 12:1	C
1	ability 8:2	appreciate 11:11	call 4:2,8 6:7
1201 5:1	able 13:16	approach 10:16	can't 11:1
136th 13:10	accept 8:16	asked 14:23	case 7:13
138th 5:2 13:21	action 9:16 10:1	asking 8:20 13:19 14:5	Cassandra 4:11
13920 11:14	actions 9:4	assistant 7:15	causes 8:4
18 7:14	additional 8:2	attorney 5:10 7:23 9:3	CD 7:12
2	address 7:1 10:9	authorized 11:24 13:3	Chair 7:3
20 7:9	addressed 11:5	aware 7:23	chance 6:5
2017 4:5	adjourn 15:9	B	Chicago 10:24
28 4:5	adjourned 15:13	based 11:9	Chief 5:5
2:00 6:3 7:16	administrative 10:2	benefit 7:12	Circuit 9:5,18,23
3	adopt 5:7,11	better 11:1	citizen 10:11
3 4:21	agenda 5:19	Board 4:3 5:6 7:1,6 8:22,24 9:1, 4,24 10:1,9,13 13:14,15 14:5,11	City 10:23
370 13:16	agreed 12:22	Bosco 7:7	cleaned 14:19
4	Alexander 7:16	boxes 13:16	closed 7:21 8:8 9:24
458 13:10	allegiance 4:8	Bracken 10:22	closely 10:22
7	allow 4:23 14:19	bring 14:7	color 15:2
7:23 15:13	allowed 7:2	bringing 14:1,3	come 11:2 12:6 13:12,24 14:14 15:7
	answer 15:6	brought 12:20	coming 11:7
	answering 12:15		

comment 5:18,21 6:1,5 comments 5:17 11:12 14:9 15:9 community 11:2,7 15:2 companies 11:8 company 11:10,17 15:5 concerns 11:3,5 conclusion 6:1 conditional 4:23 12:22,24 conditions 5:7 considered 9:15 contaminated 14:17,18 continue 11:24 contractor 12:11,12 contractor's 12:16,19 controlled 9:1 Cook 9:5 11:9 correct 12:12,17 County 9:6 11:9 court 8:18 9:5,18,24 10:18 create 9:18 created 9:23 creating 9:22	<hr/> D <hr/> damage 15:3 date 4:4 de 9:10,12,16 decision 12:5 decision-- 9:8 deemed 12:10,11,16,19 delivered 6:2 7:15 determination 12:13,17 dinner 13:18 discussed 5:4 discussion 8:1 Disposal 7:8 district 5:1 document 6:2 documentation 8:7 dollars 7:11 14:8 don't 8:17 13:23 14:21 donations 13:19 <hr/> E <hr/> empty 13:22	establishes 5:6 evening 4:2 10:20 14:11 event 9:16 12:24 evidence 8:3,7 Excuse 5:14 expired 10:5,8 explain 9:10 express 11:6 <hr/> F <hr/> facility 4:24 fact 14:17 families 13:17 favor 15:11 firm 7:7 FOIA 8:13 folks 7:8 food 13:16,19 forth 5:8 further 12:11,16 <hr/> G <hr/> general 5:1	give 12:5 given 11:21 God 14:13,16 15:5 goes 7:13 going 5:16 7:9 9:18 10:12 12:4 14:5,7,13 good 4:2 10:20 14:11 15:14 granted 12:24 granting 4:23 <hr/> H <hr/> Half 10:6 hand 13:16 haven't 13:11 heard 11:5 hearing 5:4,23 7:20,21,22 8:10, 11,12,14,19 9:7 12:7,9 heart 14:15 history 7:14 HOLCOMB 4:9,11,13,15,17,19 6:8, 12,14,16,18,20,22 <hr/> I <hr/> I'm 12:4,15 14:5 I've 13:20
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I-2 5:1	jobs 14:2,7	Linda 7:16	motion 5:10 6:24 15:9
Illinois 10:24 11:15	Joseph 13:10	little 14:24	moved 5:12 15:10
impossible 8:10,12	justice 14:16	lived 13:20	<hr/> N <hr/>
impressive 11:9	<hr/> K <hr/>	long 13:21	name 7:4,6 10:19,20
income 14:1	keep 14:6	look 15:1	negatively 13:13
Incorrect 10:4	kid 13:22	lot 13:11	never 14:19
industrial 5:1	know 9:4 11:2,17 12:6 13:8,15 14:15,21 15:4,5	<hr/> M <hr/>	new 4:22 8:15 9:13 11:7
informed 12:20	known 5:1 10:21	Mark 7:6	night 15:14
injustice 14:13	<hr/> L <hr/>	Marzano 13:9,10	November 4:5
instance 12:3	land 13:21 14:1,16	Mayor 5:14 7:5 13:16,18	novo 9:10,12,16
integrity 14:21,24 15:4	Larose 5:14,16,20 6:2 7:4,5,7,22 8:9,20 9:3,13,19,21 10:1, 6,14,18	me-- 10:7	<hr/> O <hr/>
interaction 11:10	lately 13:11	means 9:13	o'clock 4:4 6:3 7:16
interest 7:24	Latin 9:13	meditation 4:6	offering 14:2
issued 11:19 13:5	law 7:7 9:14 10:3	meeting 4:3 7:22 15:13	Officers 7:6
issues 9:17	lawsuit 14:18	meetings 11:4 13:11	Okay 10:1
it's 4:4 6:3 8:7,19 10:12 14:7	lawyer 10:7	members 5:6 6:24 7:6	once 7:2
Item 4:21	legislative 9:15	metal 4:24 12:21	operate 11:21,24
<hr/> J <hr/>	Levere 4:17,18 6:22,23	million 7:11	operating 7:14 11:18,20 12:4,18
JACKSON 4:2,21 5:9,15 6:7,24 10:5,8,16,19 11:12 13:9 14:9 15:8,11,13	Lewis 4:13,14 6:6,8,9,11,12,13 15:12	minority 11:8	opportunity 7:1 8:6
James 11:14	light 11:6	minutes 7:2	order 4:3 5:15
Jefferson 4:9,10 5:13 6:16,17		moment 4:5	ordinance 4:22 5:3,8,21 7:18
		money 13:24 14:23	

originally 12:10	pledge 4:8	questions 5:9 11:3	results 8:13
outside 6:3	podium 10:17	quorum 4:21	review 9:5,11,12,16 10:2,3 12:11,16
<hr/> P <hr/>	politics 14:4	<hr/> R <hr/>	reviewed 5:24
p.m. 15:13	poor 15:1	Racine 11:15	Reynolds 11:13,14 12:2,8,14 13:2, 4,7
package 7:16 10:15	positive 11:6	raised 11:4	right 9:20 13:15
paper 13:5	posted 7:12	recognized 7:3	rights 8:5
part 7:19 8:20 9:21 10:12,15	pray 14:13 15:5	recommendation 5:7	Riley-pinkney 4:11 6:18,19
participation 11:8	prayer 15:6	record 5:4,22,24 6:3 7:4,20 8:7, 18,21 9:2,18,22,24 10:13,19	Riverdale 4:23 7:13 11:15,19,22 13:20,24 14:2,8,12,14,22
parties 7:24	praying 14:12	recycling 4:24 12:21	Roll 4:8 6:7
pass 5:21	present 4:21	redeveloping 14:1	royalties 7:11
passed 6:24 7:18 14:6	principal 7:7	reflection 4:6	ruling 8:17,23
Paul 10:20	prior 11:4	refute 8:3	run 7:9
people 13:12,23 14:3,22 15:2,3	problem 13:23	regard 15:5	<hr/> S <hr/>
people's 8:4	problems 8:4	regular 4:3	Scharnhorst 5:5
perfect 7:14	process 12:23	relates 8:4	school 9:14
permit 11:18,20,21 12:5,23 13:2,4,6	processed 12:1	represent 7:8	second 5:13 6:6 13:20 15:12
person 11:1	proper 12:20	request 8:13	see 10:18 13:23
pick 7:10 14:5	proposing 8:3	resident 10:10	serve 14:22
PINKNEY 4:12	provided 5:5,22	residents 13:15,17	set 5:8
Place 13:11	public 5:16,18,24 6:5 7:1	respect 7:17	Shipp 14:10,11
please 4:7 5:10 6:4,7 7:3 10:16	<hr/> Q <hr/>	Respectfully 9:9	shut
	question 11:16 12:15		

13:1 sir 5:15,22 10:16 sit 6:4 site 7:13 Smith 4:19,20 6:14,15 somebody 10:7 South 11:14 speak 7:2 13:12 spend 13:24 stand 4:7 start 12:3,4 started 12:18 state 7:3 10:19,24 stated 5:23 11:23 12:7,8,14 station 4:24 7:9,17 12:21 Stewart 10:20,21 stop 14:3 Street 5:2 stuff 8:15 subject 5:7 9:5,10,16 10:2 13:1 submit 8:1,2,3,6,10,13 10:10,11, 14 12:22 Supply 7:10	support 14:6 supporting 14:7 sworn 14:22 <hr/> T <hr/> take 5:16 9:17 taken 10:6 tax 14:7 team 10:22 tell 10:7 tells 14:16 temporary 11:20 thank 7:5 10:18 11:12 13:7,14 14:9 Thanksgiving 13:15,18 there's 14:15 they're 14:5 thing 13:20 things 8:14 think 8:16 14:3 three 7:2 time 10:5,8 11:11 13:12,21 today 6:3 7:15 9:4	Today's 4:4 told 10:14 town 7:9 15:1,6 transcript 8:11 transfer 4:24 7:9,17 12:21 trash 7:10 Tri-state 7:8 Trustee 4:9,13,15,17,19 6:8,12, 14,16,18,20,22 Trustees 4:3 <hr/> U <hr/> understand 9:12 understood 12:23 unlawfulness 15:6 use 4:23 12:17,21,22,24 <hr/> V <hr/> Village 4:22 5:10 7:11 11:19,22, 23 12:10 14:2,17 <hr/> W <hr/> want 8:17 9:17 10:21 12:3,6 13:12,14 14:11 wanted 11:6 13:7 wanting 13:23	We'll 4:5 we're 9:18 15:3 Welch 5:2,3,12,18,22 6:4,10 7:21 8:9,19,22 9:3,9,15, 20,23 10:4,10 11:23 12:7,10,15 13:3,5 weren't 13:18 West 5:2 13:10 Williams 4:15,16 6:20,21 15:10 wish 10:9 withh 10:23 worked 10:22 worthless 5:20 wouldn't 13:17 wrong 7:13 9:9 <hr/> Y <hr/> yard 12:11,12,17,19 year 7:14 years 7:10 10:23 11:10 You'll 6:4 7:2 you're 5:15,16 7:3 8:3 9:9 <hr/> Z <hr/> zoning 5:6 8:24 9:1,24 10:1,12 12:1
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EXHIBIT JJ

Special meetings may be called by the president of the village or any three trustees upon at least twenty-four hours' notice to all members and the president. If all the trustees are present at a special meeting, no notice of the meeting shall be necessary and such notice shall be deemed waived.

2.08.050 Presiding officer.

The village president shall be the presiding officer of all regular and special meetings of the board of trustees and at all times when the board meets as a committee of the whole.

2.08.060 Quorum.

A majority of the trustees, or three trustees and the village president, shall constitute a quorum to do business.

2.08.070 Ordinances, resolutions and motions – Approval or veto by village president.

All resolutions and motions (A) which create any liability against the village or (B) which provide for the expenditure or appropriation of its money, or (C) to sell any village property, and all ordinances passed by the village board shall be deposited with the village clerk. If the village president approves of them, he shall sign them. Those of which he disapproves, he shall return to the village board, with his written objections, at the next regular meeting of the village board occurring not less than five days after their passage. The village president may disapprove of any one or more sums appropriated in any ordinance, resolution or motion making an appropriation, and if so, the remainder shall be effective. However, the village president may disapprove entirely of an ordinance, resolution or motion making an appropriation. If the village president fails to return any ordinance or any specified resolution with his written objections, within the designated time, it shall become effective despite the absence of his signature.

2.08.080 Reconsideration – Passing over veto.

Every resolution and motion specified in RMC 2.08.070, and every ordinance, which is returned to the board of trustees by the village president, shall be reconsidered by the board of trustees. If, after such reconsideration, two-thirds of all the trustees elected to the village board agree to pass an ordinance, resolution or motion, notwithstanding the president's refusal to approve it, then it shall be effective. The vote on the question of passage over the president's veto shall be by yeas and nays, and shall be recorded in the journal.

EXHIBIT KK

(65 ILCS 5/Art. 6 Div. 4 heading)

DIVISION 4. FUNCTIONS AND DUTIES OF MAYOR,
COUNCIL AND OFFICERS

(65 ILCS 5/6-4-1) (from Ch. 24, par. 6-4-1)

Sec. 6-4-1. Mayor.

The mayor shall be recognized as the official head of the city or village by the courts for the purpose of serving civil process and by the governor for all legal purposes.

The mayor of any city or village which adopts this Article 6 shall have veto power as provided in Sections 6-4-2 through 6-4-4 and ordinances or measures may be passed over his veto as therein provided. Such mayor shall have the power to vote as provided in Section 6-4-5.

If any other act or any article of this Code other than Article 3 or Article 4 provides for the appointment of a board, commission or other agency by the mayor and the corporate authorities establish such board, commission or agency, such appointments shall be made in manner so provided.

(Source: P.A. 76-746.)

(65 ILCS 5/6-4-2) (from Ch. 24, par. 6-4-2)

Sec. 6-4-2. Ordinances - Approval - Veto.

All ordinances passed by the council shall be deposited with the city or village clerk. If the mayor approves of them, he shall sign them. Those of which he disapproves he shall return to the council, with his written objections, at the next regular meeting of the council occurring not less than 5 days after their passage. The mayor may disapprove of any one or more sums appropriated in any ordinance, resolution, or motion making an appropriation, and, if so, the remainder shall be effective. However, the mayor may disapprove entirely of an ordinance, resolution, or motion making an appropriation. If the mayor fails to return any ordinance or any specified resolution or motion with his written objections, within the designated time, it shall become effective despite the absence of his signature. The vote on every ordinance shall be by yeas and nays, and shall be recorded in the journal.

(Source: P.A. 76-746.)

EXHIBIT LL

MARK A. LAROSE *
JOSEPH A. BOSCO *
DAVID KOPPELMAN
DAVID ROSEMEYER
DAVID J. ARON
COSTA DIAMOND
MARISSA R. ALASKA
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OF COUNSEL

HON. ANTHONY J. BOSCO (1928-2008)

JOSEPH G. ALIOTO **

ALBERTO QUIROS JAEN***

* ADMITTED IN MICHIGAN ALSO

** ADMITTED IN WISCONSIN ONLY

*** ADMITTED IN PANAMA ONLY

February 10, 2020

NOTICE TO CEASE AND DESIST

By E-Mail: mjs@daleygeorges.com

Riverdale Materials, LLC
c/o Mr. Michael Synowiecki
Registered Agent
Daley and Georges
20 S. Clark Street, Suite 400
Chicago, IL 60603

Dear Mr. Synowiecki,

I represent the owners of the retention pond adjacent to Riverdale Materials' facility in Riverdale, Illinois.

During the proceedings to obtain the Village's authorization for Riverdale Materials to conduct business within the Village, representatives of Riverdale Materials testified that stormwater runoff and drainage for its facility would be pursuant to an "on-site retention pond." That was neither true nor accurate. Neither Riverdale Materials nor any entity affiliated with it owns the retention pond. My client does.


Riverdale Materials is hereby put on **notice to cease and desist** from any drainage, stormwater runoff, or any other depositing of materials into my client's retention pond now and in the future. Stormwater runoff from Riverdale Materials' facility and any other water collected at Riverdale Materials' facility needs to be managed on Riverdale Materials' property, and not on my client's property.

We look forward to Riverdale Materials' response to this cease and desist notice, and cooperation. Continued use of my client's retention pond in order to manage its stormwater or other runoff of its facility will not be tolerated, and my client is prepared to take legal action to prevent the same.

Riverdale Materials, LLC
February 10, 2020
Page 2

In the meantime, if you have any questions or are in need of additional information, please do not hesitate to contact me.

Very truly yours,



Mark A. LaRose

MAL/mk

EXHIBIT MM

DECLARATION UNDER OATH OF SHERYL GERMANY

I, Sheryl Germany, being duly sworn on oath and under penalty of perjury, do hereby state as follows:

1. I am the President of Tri-State Disposal, Inc.
2. The facts contained in this Declaration are based on my personal knowledge, and if called to do so, I could competently testify to these facts.
3. To protect the retention pond adjacent to the Riverdale Materials' site from further contamination and to establish that Riverdale Materials did not have ownership or the ability to use the retention pond for stormwater run-off, in May 2019, Tri-State (as managing member of an affiliated company, North Side 138, LLC) purchased the retention pond. At my direction, our attorney issued a Cease and Desist Notice to Riverdale Materials to stop using the retention pond for its runoff from its contaminated site. Riverdale Materials never responded to that letter.

Further Declarant Sayeth Not.

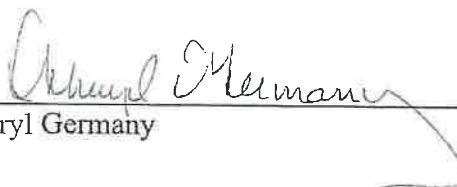

Sheryl Germany

EXHIBIT NN

DECLARATION UNDER OATH OF MARK A. LAROSE

I, Mark A. LaRose, being duly sworn on oath and under penalty of perjury, do hereby state as follows:

1. I am the attorney for Tri-State Disposal in this case.
2. The facts contained in this Declaration are based on my personal knowledge, and if called to do so, I could competently testify to these facts.
3. On February 10, 2020, Jim Bracken called me, at night, at home, on my cell phone, and threatened me and my client. I told him I was sleeping, give me a second to get out of bed, and he said 'No, I'm not going to give you any time to record this phone call,' at which time he proceeded to threaten me and my client repeatedly.
4. On February 12, 2020, I sent a letter to Mr. Bracken's lawyers, Daley and Georges, telling them to advise Mr. Bracken to refrain from ever contacting me again.
5. I never received even the courtesy of a response to my letter.
6. Based on a response to a FOIA sent to the Village requesting all documents, information, submittals, approvals, and/or actions pertaining to a stormwater pollution prevention plan and dust control plan, there were no responsive documents to show that anything was reviewed by a Village engineer as required by Village Ordinance 2017-22.

Further Declarant Sayeth Not.


Mark A. LaRose

EXHIBIT 00

MARK A. LAROSE *
JOSEPH A. BOSCO *
DAVID KOPPELMAN
DAVID ROSEMEYER
DAVID J. ARON
COSTA DIAMOND
MARISSA R. ALASKA
NATALIE MARTELLO



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OF COUNSEL

HON. ANTHONY J. BOSCO (1928-2008)

JOSEPH G. ALIOTO **

ALBERTO QUIROS JAEN***

* ADMITTED IN MICHIGAN ALSO

** ADMITTED IN WISCONSIN ONLY

*** ADMITTED IN PANAMA ONLY

February 12, 2020

By E-Mail: mjs@daleygeorges.com

Riverdale Materials, LLC
c/o Mr. Michael Synowiecki
Registered Agent
Daley and Georges
20 S. Clark Street, Suite 400
Chicago, IL 60603

Dear Michael,

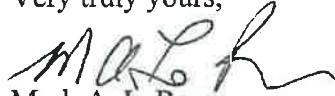
I presume Daley and Georges still represents Riverdale Materials and Jim Bracken.

On Monday night, February 10, 2020, at 9:45 EST (while I was sleeping), my phone rang repeatedly until my wife finally got frustrated and answered it. It was Jim Bracken. I told him I was sleeping, give me a second to get out of bed, and he said "No, I'm not going to give you any time to record this phone call." He then proceeded to threaten me and my client repeatedly.

If you still represent Mr. Bracken and his companies, I would appreciate it if you would advise him not to ever contact me again.

Lawsuits are often a battle, but in the words of the late great Honorable Abraham Lincoln Marovitz, let us "... learn how to disagree without being disagreeable." Late night personal threats to me at my home on my private phone could never be construed as anything but absolutely inappropriate.

Very truly yours,



Mark A. LaRose

MAL/mk

cc: Joseph Bosco (jbosco@laroseboscolaw.com)
Michael Daley (mdaley@daleygeorges.com)
Mara Georges (mgeorges@daleygeorges.com)

EXHIBIT PP

Only the Westlaw citation is currently available.
United States District Court, N.D. Illinois, Eastern Division.

Brenda WEEKS, Plaintiff,

v.

CITY OF PLANO, Dennis Harris, Harry Haggard, Steve Eaves, Plano Police Department, and
Others not presently known to Plaintiff, Defendants.

No. 88 C 0518.
March 7, 1989.

MEMORANDUM OPINION AND ORDER

PLUNKETT, District Judge.

*1 Plaintiff Brenda Weeks brings suit against the City of Plano, Illinois, the Plano Police Department, Chief of Police Dennis Harris, Officers Harry Haggard and Steve Eaves, and others not presently known to Plaintiff. In a Memorandum Opinion and Order dated August 9, 1988, we granted Defendants' motion to dismiss Plaintiff's original complaint. Plaintiff subsequently filed an amended complaint. Currently before us is the City of Plano's motion to dismiss the amended complaint in so far as it pertains to the City. For the reasons set forth below, the motion is denied. The City's motion to strike the portions of the amended complaint seeking punitive damages against the City, is, however, granted.

Our prior opinion set forth the allegations of the original complaint in detail. Because the substance of those allegations remains substantially unchanged, we shall proceed directly to a discussion of the issues presently before us.

Discussion

The City asserts that Plaintiff's Section 1983 claim against it cannot stand because Plaintiff has not pleaded a policy or custom on the part of the City sufficient to hold the City liable under Section 1983. The allegations of the amended complaint relevant to the City's potential liability are twofold. Plaintiff alleges that the campaign of harassment was planned by, among others, Chief of Police Harris. (Amended Complaint, Para. 13) She also alleges that the Mayor of Plano met with Defendants Harris and Haggard prior to Plaintiff's termination, knew of the individual Defendants' actions, and sanctioned those actions. (*Id.* at Para. 25)

The City contends that only the Plano City Council has authority to make policy concerning police conduct. It asserts that any departures from the "Rules and Regulations of the Plano Police Department" passed by the City Council on February 14, 1983 constitute individual action which cannot be attributed to the City for purposes of assigning liability under Section 1983. As we shall explain below, we disagree.

Our decision is guided by the Supreme Court's plurality opinions in *Pembaur v. Cincinnati*, 475 U.S. 469 (1986) and *St. Louis v. Praprotnik*, 108 S.Ct. 915 (1988). In *Pembaur*, the Court¹ made clear that municipal liability may be imposed for a single decision by a municipal policy-maker in appropriate circumstances:

To be sure, "official policy" often refers to formal rules or understandings—often but not always committed to writing—that are intended to, and do, establish fixed plans of action to be followed under similar circumstances and over time.... However, ... a government frequently chooses a course of action tailored to a particular situation and not intended to control decisions in later situations. If the decision to adopt that particular course of action is properly made by that government's authorized decision-makers, it surely represents an act of official government "policy" as that term is commonly understood. More importantly, where action is directed by those who establish governmental policy, the municipality is equally responsible whether that action is to be taken only once or to be taken repeatedly.

*2 475 U.S. at 480–81. In *Praprotnik*, the plurality acknowledged that in some cases policy-making responsibility is shared among more than one official or body. 108 S.Ct. at 925. It went on to emphasize that

the authority to make municipal policy is necessarily the authority to make *final* policy. When an official's discretionary decisions are constrained by policies not of that official's making, those policies, rather than the subordinate's

departures from them, are the act of the municipality. Similarly, when a subordinate's decision is subject to review by the municipality's authorized policymakers, they have retained the authority to measure the official's conduct for conformance with *their* policies. If the authorized policymakers approve a subordinate's decision and the basis for it, their ratification would be chargeable to the municipality because their decision is final.

Id. at 926 (citation omitted).

Pembaur makes clear that a decision not intended for general application, but rather tailored to a particular case, is properly attributable to a municipality if made by the municipality's authorized policymakers. Moreover, *Praprotnik* indicates that ratification of a non-policymaker's decision (and the basis for it) by an authorized policymaker is also sufficient to subject a municipality to liability under Section 1983. Here, Plaintiff has alleged that unconstitutional actions were planned by the Chief of Police and approved by the Mayor. If one or both of these officials are "authorized policymakers," the unconstitutional actions are properly charged to the municipality itself. Thus, the City's potential liability turns on whether the Chief of Police and/or the Mayor are "authorized policymakers."

The identification of policymaking officials is a question of state law, which includes valid local ordinances and regulations. *St. Louis*, 108 S.Ct. at 924. Illinois law provides that the powers and duties of a Mayor are, *inter alia*, "to exercise control of all departments and divisions ... created in this Article ... or that may be created by the council." Ill.Rev.Stat. Ch. 24, Para. 6-4-7. As to the duties of the Chief of Police, the police department rules passed by the Plano City Council provide that "[t]he Chief of Police is the chief executive officer of the Department and the final departmental authority on all matters of policy, operations, and discipline...." (Ch. II, I-A)

We believe that both the Chief of Police, as the "final departmental authority on all matters of policy," and the Mayor, who is empowered to exercise control over all of the municipality's departments, including the police department, are authorized policymakers as to police department operations under state and local law. Thus, the actions of these officials "are, properly speaking, acts 'of the municipality.'" *Pembaur*, 475 U.S. at 480; see also *Monell v. Department of Social Services*, 436 U.S. 658 (1978). The motion to dismiss Plaintiff's Section 1983 claim against the City is therefore denied.

***3** The City also moves to strike Plaintiff's requests for punitive damages against the City under both Section 1983 and state law. In that respect, Defendant's motion is granted. Municipalities are not subject to punitive damages under Section 1983. *Newport v. Fact Concerts, Inc.*, 453 U.S. 247 (1981). Punitive damages against a municipality are similarly unavailable under state law. Ill.Rev.Stat. Ch. 85, Section 2-102. Thus, Plaintiff's requests for punitive damages against the City and against the individual Defendants in their respective official capacities are stricken. See *Monell*, 436 U.S. at 690, n. 55 (suit against public employee in her official capacity tantamount to suit against the municipality itself).

Conclusion

For the foregoing reasons, the motion of the City of Plano to dismiss the complaint against the City is denied, but the amended complaint is stricken in so far as it seeks punitive damages against the City or against individual city employees in their official capacities.

All Citations

Not Reported in F.Supp., 1989 WL 20831

Footnotes

- 1 The portion of *Pembaur* to be quoted represents the opinion of the Court rather than a mere plurality.